

IN THE CLAIMS

Kindly amend the claims as follows.

Claim 6, last line, delete “-(CH₂)₃-CH(CH₃)-CH₂- or”.

Claim 16, line 10, delete “-(CH₂)₃-CH(CH₃)-CH₂-”.

STATUS OF THE CLAIMS

Claims 2-3, 5 to 12 and 16 to 18 were pending in this application.

Claims 2-3, 5 to 10 and 16 to 18 are rejected under 35 U.S.C. § 103 as being unpatentable over Harms, GB 2,034,731.

Claims 11 and 12 are objected to as being dependent upon a rejected base claim.

Claims 6 and 16 have been amended.

Claims 2-3, 5 to 10 and 16 to 18 are presented for reconsideration.

REMARKS

The claims have been amended in order to more particularly point out and distinctly claim the invention. Thus, in the proposed amendment the group -(CH₂)₃-CH(CH₃)-CH₂- has been cancelled in the definition of B in independent claims 16 and in claim 6. No new matter has been added.

Present claims 2-3, 5 to 10 and 16 to 18 are rejected under 35 U.S.C. § 103 as being unpatentable over Harms et al. (GB-A-2 034 731) for the reasons addressed by the Examiner in the Office Action. Reconsideration of said rejection is requested in light of the amendment *supra* and the following remarks and declaration.

The dyes of Harms differ from the instantly claimed dyes of claim 16 with respect to the diamino bridge member B connecting the anthraquinone chromophore and the triazine ring. Applicant acknowledges that the dyes of the cited reference having the closest structural similarity to the instantly claimed dyestuffs are the dyes obtainable from the reactants shown in Examples 48 and 74 of Harms. Accordingly, a proper comparison with the dyes of the prior art has to be made with the dyes of said Examples. Said Examples are based on the same C₅-diamine, 2,4-diaminopentane.

Since 2,4-diaminopentane is not commercially available, at least according to applicant's knowledge, and the reference is absolutely silent on how it is obtainable, applicant has tried to synthesize said diamine according to procedures known in the art of amine preparation. Two approaches were taken which were diligently pursued by the applicant over the last 20 months. These approaches were: (i) catalytic hydrogenation of pentanone-2,4-dioxime and (ii) reductive amination of 2,4-dioxopentane, the details of which are given in the declaration which respectfully is submitted herewith. With approach (i), three different hydrogenation catalysts were tried. However, each of these efforts to synthesize 2,4-diaminopentane failed. Likewise approach (ii) also failed. Therefore, the present declaration at least demonstrates that the teaching of the prior art fails to satisfy the enablement requirement with regard to the dyes of Examples 48 and 74, which is indispensable for a disclosure to constitute prior art against any later invention.

Applicant notes that no significant properties are listed for the dyes of Examples 48 and 74. Further, from page 11, lines 28-30 and page 17, lines 27-28, it appears that Examples 48 and 74 (as well as the other dyes obtainable from the indicated reactants), are prophetic. Since 2,4-diaminopentane is not commercially available and cannot be made by procedures known in the art of amine preparation, applicant avers that one skilled in the art is not enabled to make and use the invention disclosed in Examples 48 and 74 in the reference.

Since the dyes of Example 48 and 74 cannot be considered as prior art against the subject matter of instantly amended claim 16, applicant respectfully requests the examiner to reconsider the comparison submitted in applicant's earlier declaration dated August 22, 1996, wherein the dye of Example 78 of Harms et al. was compared to a claimed dye. The dyestuffs A and X in said declaration differed from each other only with respect to the diamino bridge member. The prior art dye of Example 78 is based on a diamine which contains four carbon atoms. The declaration clearly showed that dye A according to the present application had a distinctly better affinity to cotton fiber material. The expert found the extent of the improvement to be very surprising and unexpected in

view of the structural similarity of the compounds, and to be of considerable practical and commercial importance.

Reconsideration and withdrawal of the rejection of claims is respectfully solicited in light of the amendment *supra*, the second declaration and the remarks directed thereto.

Since there are no other grounds of objection or rejection, passage of this application to issue with claims 2-3, 5 to 12 and 16 to 18 is earnestly solicited.

Applicants submit that the present application is in condition for allowance. In the event that minor amendments will further prosecution, Applicants request that the Examiner contact the undersigned representative.

Respectfully submitted,



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Enclosure: Declaration

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